

From the
INTERNATIONAL SEARCHING AUTHORITY

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/051843

International filing date (day/month/year)
19.08.2004

Priority date (day/month/year)
20.08.2003

International Patent Classification (IPC) or both national classification and IPC
B65B9/04, B65B9/02

Applicant
MARS INCORPORATED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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10/568600

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/051843

1AP20 Rec'd PCT/TO 17 FEB 2006

Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/051843

Box No. II Priority

1. ☒ The following document has not been furnished:
- ☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 - ☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).
- Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	6-8, 13-14
	No: Claims	1-5, 9-12
Inventive step (IS)	Yes: Claims	
	No: Claims	1-14
Industrial applicability (IA)	Yes: Claims	1-14
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2004/051843

Section V**1. *Relevant documents***

The following document is referred to in this communication; the numbering will be adhered to in the rest of the procedure:

D1: US 4 154 636 A

D2: US 4 604 852 A

D3: GB 1 297 000 A

2. *Claims 1-5 and 9-11*

The present application does not meet the criteria of Article 33 (1) PCT, because the subject-matter of claims 1-5 and 9-11 is not new in the sense of Article 33 (2) PCT.

2.1 Document D1 discloses a device and its operating method for packaging products showing all the features of claims 10 and 11 (and therefore all the features of claims 1-5 and 9-11). In particular document D1 shows first and second sheets (s. [1] and [2]) continuously moved in a transport direction (vertical in Fig. 1, horizontal in Fig.3). The first and second sheets are sealed together near the outer edges of the individual grouped products by a sealing device (s. [5] and [6]). At least one of said sheets (see e.g. [2]) is pre-shaped by a pre-shaping device (s. [7]+[3] or [8]+[4]) to fit at least partially around the products before the same sheet (see e.g. [2]) comes into contact with the products. The pre-shaping device comprises a first rotating shaping frame (see [3] or [4]) on one side of the moving sheet and a second rotating shaping frame (see [7] or [8]) on the opposite side of the moving sheet, the rotation axes of both frames extending transversely to the transport direction of the sheet, wherein said frames comprise co-operating protruding shaping ribs (see the shape of frames [3], [4], [7] and [8]) extending substantially transversely to the transport direction, wherein the shaping ribs of both frames move between each other, and wherein said shaping ribs are being moved at the same speed as the pre-shaped sheet.

3. *Dependent claims 6-8*

Claims 6-8, as presently formulated, show additional features which are well known in the art. Therefore their subject-matter is not inventive within the meaning of Article 33 (3) PCT.

In particular document D2 shows the additional feature of claim 6 (see 'straws' [50]) and document D3 shows the additional feature of claim 8 (see 'perforation line' [90]).

4. *Claim 12*

The present application does not meet the requirements of Article 33 (1) PCT, because the subject-matter of claim 12 is not new in the sense of Article 33 (2) PCT.

Document D3 discloses an array of packaged products (s. Fig.X) showing all the features of claim 12.

5. *Dependent claims 13-14*

Claims 13-14, as presently formulated, show additional features which are well known in the art. Therefore their subject-matter is not inventive within the meaning of Article 33 (3) PCT.

In particular document D2 shows the additional feature of claim 13 (see 'straws' [50]).

The subject-matter of claims 1-14 is industrially applicable (Article 33 (4) PCT).

Section VIII

The present application lacks conciseness and clarity (Article 6 PCT) because of the two independent apparatus claims (9 and 11) and the two independent method claims (1 and 10).

Section VII

Contrary to the requirements of Rule 5.1 (a) (ii) PCT, documents D1 and D3 are not identified in the description and the relevant background art disclosed therein is not even briefly discussed.